

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Edward Linder d/b/a The 2nd Street Trust)
 Map 082-07-0, Parcel 235.00) Davidson County
 Commercial Property)
 Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

An appeal has been filed on behalf of the property owner with the State Board of Equalization on September 28, 2007. The subject property is presently valued as follows:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$13,500 | \$86,400 | \$99,900 | \$39,960 |

The undersigned administrative judge conducted a hearing in this matter on January 17, 2008, in Nashville, Tennessee. In attendance at the hearing were Bruce Bodor, the appellant's representative, son-in-law and real estate agent. Jason Poling, Deputy Assessor for the Davidson County Property Assessor and the Jenny Hayes, Esquire, Metropolitan Legal Department represented the interest of Davidson County.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The property contains 0.18 acres of land and is mainly classified as commercial with a residential style duplex building. It was built in about 1920 and is located at 703 North 2nd Street in Nashville, Tennessee.

The taxpayer's representative contended that subject property should be valued at \$61,000 when the application was prepared but changed the value to \$65,000 when he presented his proof in the appeal hearing. Mr. Bodor produced several exhibits to support his contention of value; none however in the opinion of the administrative judge comply with the standards of assessing property by the acceptable standards of the industry.¹

The assessor contended that subject property should remain valued at \$99,000. In support of this position, the assessor alleges that the taxpayer's representative use of unqualified sales and use of property sales rather than paired data analysis has led to an erroneous value of the subject property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

¹ The valuation process is a systematic set of procedures an appraiser follows to provide answers to a client's questions about property value. *The Appraisal of Real Estate*, 12th Ed, 2001

The administrative judge finds that rather than averaging comparable sales,² comparables must be adjusted. As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . . Final Decision and Order at 2.

In analyzing the arguments of the taxpayer, the administrative judge must also look to the applicable acceptable standards in the industry when comparing the sales of similar properties as the taxpayer's representative attempted to do here.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.

2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.

3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.

4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then **adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable.** This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.

Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). Andrew B. & Majorie S. Kjellin, (Shelby County, 2005)

² Look at the Exhibits #2 and #3 from the taxpayer's representative. Mr. Bodor's presentation did not perform any analysis of the data he presented.

**** It should be noted that the County filed rebuttal information to the information Mr. Bodor submitted at the hearing.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds Mr. Bodor did sustain his burden of proof and that the property shall remain as previously assessed.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$13,500 | \$86,400 | \$99,900 | \$39,960 |

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

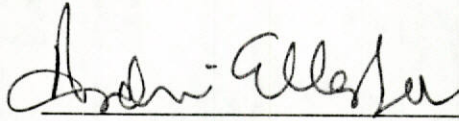
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 13th day of March, 2008.

A handwritten signature in cursive script, appearing to read "Andrei Ellen Lee", written over a horizontal line.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Bruce Bodor
Jo Ann North, Assessor of Property
Jenny L. Hayes, Esq.